

FEB 14 2018

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10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 ALFONSO LARES

13 Plaintiff,

14 vs.

15 RELIABLE WHOLESALE LUMBER, INC.,

16 Defendant,

Civil Case No.: 8:18-cv-00157-JLS-AGR

**[PROPOSED] CONSENT DECREE**

**(Federal Water Pollution Control Act,  
33 U.S.C. §§ 1251 *et seq.*)**

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1 the 1997 Storm Water Permit and the IGP at the Reliable Facility<sup>1</sup>;

2       **WHEREAS**, on January 29, 2018, Plaintiff filed a complaint against Reliable in the United States  
3 District Court, Central District of California (Case No.), alleging violations of Section 301(a) of the Clean  
4 Water Act, 33 U.S.C. § 1311(a), and violations of the Storm Water Permit at the Reliable Facility  
5 (“Complaint”);

6       **WHEREAS**, Plaintiff alleges Reliable to be in violation of the substantive and procedural  
7 requirements of the 1997 Storm Water Permit, the IGP, and the Clean Water Act with respect to the  
8 Reliable Facility;

9       **WHEREAS**, Reliable denies all allegations in the Notice Letter and Complaint relating to the  
10 Reliable Facility;

11       **WHEREAS**, Plaintiff and Reliable have agreed that it is in the Settling Parties’ mutual interest to  
12 enter into a Consent Decree setting forth terms and conditions appropriate to resolving the allegations set  
13 forth in the Complaint without further proceedings; and

14       **WHEREAS**, all actions taken by Reliable pursuant to this Consent Decree shall be made in  
15 compliance with all applicable federal and state laws and local rules and regulations.

16  
17 **NOW THEREFORE IT IS HEREBY STIPULATED BETWEEN THE SETTling PARTIES**  
18 **AND ORDERED AND DECREED BY THE COURT AS FOLLOWS:**

19       1.     The Court has jurisdiction over the subject matter of this action pursuant to Section 505(a)  
20 of the Clean Water Act, 33 U.S.C. § 1365(a);

21       2.     Venue is appropriate in the Central District of California pursuant to Section 505(c)(1) of  
22 the Clean Water Act, 33 U.S.C. § 1365(c)(1), because the Reliable Facility is located within this District;

23       3.     The Complaint states claims upon which relief may be granted pursuant to Section  
24 505(a)(1) of the Clean Water Act, 33 U.S.C. § 1365(a)(1);

25       4.     Plaintiff has standing to bring this action;

26       5.     The Court shall retain jurisdiction over this matter for purposes of enforcing the terms of  
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<sup>1</sup> For purposes of this Consent Decree, the NPDES permit and any amendments thereto in effect at the time of Reliable’s required compliance with the terms of this Consent Decree shall be referred to as “the Industrial General Permit” or “IGP.”



1 this Consent Decree for the life of the Consent Decree, or as long thereafter as is necessary for the Court  
2 to resolve any motion to enforce or to extend this Consent Decree.

3 **I. OBJECTIVES**

4 It is the express purpose of the Settling Parties entering into this Consent Decree to further the  
5 objectives set forth in the Clean Water Act, 33 U.S.C. §§ 1251, et seq., and to resolve those issues alleged  
6 by Plaintiff in his Complaint. In light of these objectives and as set forth fully below, Reliable agrees to  
7 comply with the provisions of this Consent Decree and to comply with the requirements of the IGP and  
8 all applicable provisions of the Clean Water Act. Specifically, Reliable agrees to comply with Receiving  
9 Water Limitation VI.A. in the IGP which requires that Reliable “shall ensure that industrial storm water  
10 discharges and authorized Non-Storm Water Discharges (“NSWDs”) do not cause or contribute to the  
11 exceedance of any applicable water quality standards in any affected receiving water,” and Effluent  
12 Limitation V.A. of the IGP which requires that Reliable “shall implement Best Management Practices  
13 (“BMPs”) that comply with the BAT/BCT requirements of the IGP to reduce or prevent discharges of  
14 pollutants in Reliable’s storm water discharge in a manner that reflects best industry practice considering  
15 technological availability and economic practicability and achievability.” Reliable shall develop and  
16 implement BMPs necessary to achieve compliance with BAT/BCT standards and with the applicable  
17 water quality standards as those terms are defined by the IGP.

18 **II. AGENCY REVIEW AND TERM OF CONSENT DECREE**

19 **A. Agency Approval.** Plaintiff shall submit this Consent Decree to the United States Department of  
20 Justice and the EPA (collectively “Federal Agencies”) within three (3) days of the final signature of the  
21 Settling Parties for agency review consistent with 40 C.F.R. § 135.5. The agency review period expires  
22 forty-five (45) days after receipt by both agencies, as evidenced by written acknowledgement of receipt  
23 by the agencies or the certified return receipts, copies of which shall be provided to Reliable if requested.  
24 In the event that the Federal Agencies object to entry of this Consent Decree, the Settling Parties agree to  
25 meet and confer to attempt to resolve the issue(s) raised by the Federal Agencies within a reasonable  
26 amount of time.

27 **B. Effective Date.** The term “Effective Date” as used in this Consent Decree shall mean the day the  
28 Court enters this Consent Decree.

1 **C. Termination Date.** This Consent Decree shall terminate on January 31, 2019 (“Termination  
2 Date”), unless there is a prior ongoing, unresolved dispute regarding Reliable’s compliance with this  
3 Consent Decree.

4 **III. POLLUTION CONTROL REQUIREMENTS**

5 **A. Storm Water Pollution Reduction Measures and Reliable’s SWPPP**

6 **1.** The storm water pollution control measures required by this Consent Decree shall be  
7 designed and operated to manage storm water discharges, through full compliance with the IGP.

8 **2.** The control measures now in place at the Facility are all contained in the Facility’s  
9 current Storm Water Pollution Prevention Plan (“SWPPP”), a copy of which accompanies this  
10 Consent Decree as Exhibit A.

11 a. The current SWPPP addresses, among other things, good housekeeping, preventative  
12 maintenance, spill prevention and response, material handling and waste  
13 management, employee training, quality assurance and record keeping, waste and  
14 garbage, non-stormwater discharges (NSWDs), the monitoring plan, and the annual  
15 evaluation. Plaintiff agrees that Reliable’s current SWPPP, Exhibit A, now complies  
16 with the IGP, based on all water sampling conducted at the Facility to date and BMPs  
17 added to the SWPPP during 2017 to reduce zinc in the Facility’s stormwater  
18 discharges.

19 b. Reliable has engaged a Qualified Industrial Storm Water Practitioner (“QISP”),  
20 Timothy Jacobson, to assist it in preparing the Facility’s SWPPP and in implementing  
21 all the control measures described in the SWPPP. Reliable agrees to continue to  
22 engage Mr. Jacobson or to engage another QISP for the duration of this Consent  
23 Decree.

24 **3.** The settling Parties agree that the SWPPP may be modified from time to time as more fully  
25 described in this Consent Decree, provided that no such future modification shall cause the SWPPP  
26 to not comply with applicable provisions of the IGP. In the event of a modification to the SWPPP  
27 or Facility Site Map, Reliable will provide a copy of the revised exhibits to Plaintiff in the manner  
28 described herein, and to the Regional Board via SMARTs.

**B. Numeric Action Level (“NAL”) for Discharges from the Reliable Facility.** Future exceedances of the values presented in Table 1 will indicate to the discharger that additional BMPs may be needed in order to comply with BAT/BCT.

**Table 1: Numeric Action Levels for Discharges**

Pollutant	Test Method	Units	Annual NAL <sup>2</sup>	Instantaneous Maximum NAL <sup>3</sup>
pH	Per IGP Section XI.C.2	pH units	N/A	Less than 6.0, Greater than 9.0
Chemical Oxygen Demand	SM 5220C	mg/L	120	120
Total Suspended Solids	SM-2540-D	mg/L	100	400
Total Zinc	EPA 200.8	mg/L	0.26**	0.26**
Oil and Grease	EPA-1664A	mg/L	15	25

\*\*The NAL is the highest value used by the U.S. EPA based on their hardness table in the 2008 MSGP.

**C. Level 2 Status**

**1. Response Action Level 2 Evaluation and Report for 2017-2018.** During the 2016-2017 compliance year, stormwater tests conducted at the Reliable facility exceeded only the NAL for total zinc. Accordingly, Reliable’s QISP has prepared an Exceedance Response Action Level 2 Evaluation and Report for total zinc for the 2017-2018 compliance year, Exhibit B, and has submitted this report to the Regional Board. The Settling Parties agree that Exhibit B constitutes an adequate Exceedance Response Action Level 2 Evaluation and Report.

**2. Level 2 Action Report Requirements for 2018-2019.** If Reliable is required to submit any Exceedance Response Action Level 2 Report for the 2018-2019 compliance year, the report shall be prepared by a QISP and include one or more of the following demonstrations:

- (a) The identification of the contaminant(s) discharged in excess of the numeric value(s) in Table 1;
- (b) An assessment of all pollutant sources of each contaminant discharged in excess of the numeric value(s) in Table 1 and the extent to which those contaminants are associated with industrial activities at the Facility; and

<sup>2</sup> An Annual NAL Exceedance occurs when the average concentration for each parameter using the results of all the samples taken for the entire facility over the reporting year.

<sup>3</sup> An Instantaneous Maximum NAL Exceedance occurs when two or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL value as illustrated in Table 1.



1 (c) For contaminants associated with industrial activities, the identification of additional  
2 BMPs that shall be implemented to achieve compliance with the Table 1 Limit(s), as well  
3 as the design plans and calculations of these additional BMPs. In the alternative, Reliable  
4 may submit an evaluation of any additional BMPs that would reduce or prevent an  
5 exceedance, estimated costs of the additional BMPs evaluated, an analysis demonstrating  
6 that the additional BMPs needed to prevent the exceedance are not BAT/BCT and are not  
7 required to ensure discharges that do not cause or contribute to violations of water quality  
8 standards, and an analysis describing the basis for the selection of BMPs implemented in  
9 lieu of the additional BMPs evaluated but not implemented.

10 **3. Implementation Schedule**

11 (a) The time schedules for implementation of each Level 2 Response Action Report shall  
12 ensure that all BMPs are implemented as soon as possible but in no case later than January  
13 1 following the compliance year during which the exceedance occurred.

14 (b) Reliable shall be entitled to a single time extension of up to six (6) months upon submitting  
15 the following information to SMARTS and the Plaintiff:

16 a) Reason for the time extension;

17 b) A revised Level 2 Response Action Report describing the necessary tasks that  
18 will need to be taken in order to complete the technical report justifying the  
19 extension; and

20 c) A description of the BMPs that will be implemented in the interim until  
21 permanent BMPs can be implemented.

22 4. Reliable shall diligently file and pursue all required local agency applications for permits and/or  
23 approvals for the BMPs included in any Exceedance Response Action Level 2 Report. Reliable  
24 shall further diligently pursue the procurement of contractors, labor, and materials to complete all  
25 such BMPs by the deadline for implementing each Level 2 Response Action Report described in  
26 this section, and shall use commercially reasonable efforts to meet these deadlines.

27 **D. Sampling and Analysis**

28 1. Reliable shall install a recording rain gauge capable of recording rainfall to 0.1 inches at

1 the Reliable Facility within thirty (30) days of the Effective Date. Reliable shall maintain the  
2 recording rain gauge in accordance with the manufacturers' recommendations, maintain records  
3 of all maintenance and rain data, and provide such rain gauge data to Plaintiff with the Annual  
4 Comprehensive Facility Compliance Evaluation described in Section III. E. below for the term of  
5 this Consent Decree. In the event there is a dispute about the quantity of rainfall at the Facility,  
6 the rain gauge installed pursuant to this section shall be deemed to be the actual rainfall at the site.

7 2. During the duration of this Consent Decree, Reliable shall collect samples from at least  
8 two Qualifying Storm Events ("QSEs") within the first half of each reporting year (July 1 –  
9 December 31) and at least two QSEs within the second half of each reporting year (January 1 –  
10 June 30) from each sampling point at the Reliable Facility in conformity with its Storm Water  
11 Monitoring Implementation Plan ("Monitoring Plan") and in compliance with the IGP.

12 3. Reliable shall comply with the analytical methods as required by Section XI.B of the IGP  
13 as more fully described in the Monitoring Plan.

14 4. Reliable shall request that results of all sample analyses required by this Consent Decree  
15 be reported to it within thirty (30) days of laboratory receipt of the sample.

16 **E. Annual Comprehensive Facility Compliance Evaluation**

17 Reliable shall submit the Annual Comprehensive Facility Compliance Evaluation ("Annual  
18 Evaluation") to Plaintiff no later than June 15, of 2018. The Annual Evaluation shall comply with  
19 all applicable requirements of IGP Section XV.

20 **F. Storm Water Pollution Prevention Plan Revisions**

21 1. Reliable shall engage a QISP to revise the SWPPP for the Reliable Facility if there are any  
22 changes in the Reliable Facility's operations, including, but not limited to, changes to storm water  
23 discharge points or revisions, additions to the BMPs implemented pursuant to the IGP, or additions  
24 or revisions to the Monitoring Plan. Throughout the term of this Consent Decree Reliable shall  
25 submit any SWPPP revisions made pursuant to the requirements of this paragraph to Plaintiff for  
26 review and comment within ten (10) days of the SWPPP revision. Plaintiff will provide comments,  
27 if any, to Reliable within thirty (30) days of receipt of such revised SWPPP. Reliable shall  
28 incorporate Plaintiff's comments into any revised SWPPP, or shall justify in a writing prepared by



1 a QISP as to why any comment is not incorporated within thirty (30) days of receiving comments

2 **IV. MONITORING AND REPORTING**

3 **A. Site Inspections.**

4 1. In May 2018, up to three (3) of Plaintiff's representatives may participate in a Reliable  
5 Facility Annual Evaluation site inspection as more fully described in Section XV of the IGP (the  
6 "Site Inspection") The site inspection shall occur during normal business hours. Reliable shall  
7 provide Plaintiff and Plaintiff's counsel of record with at least seven business' day notice prior to  
8 the Site Inspection. Notice shall be provided by electronic mail to Plaintiff's counsel of record.  
9 Plaintiff shall respond by electronic mail and state the names of all persons that Plaintiff will bring  
10 to the Site Inspection.

11 2. Plaintiff shall provide Reliable with any comments regarding the Site Inspection within  
12 seventy-two (72) hours of the site inspection's completion. These comments shall be prepared,  
13 signed and certified by Plaintiff's designated QISP. Reliable shall respond to Plaintiff's comments  
14 within thirty (30) days from which they are received; however, Reliable is not obligated to respond  
15 to any comments regarding the Site Inspection received after seventy-two hours has passed.

16 **B. Compliance Monitoring and Oversight.** Reliable shall make a onetime payment of Ten  
17 Thousand Dollars (\$10,000.00) to compensate Plaintiff for costs and fees to be incurred for monitoring  
18 Reliable's compliance with this Consent Decree. Payment shall be made within five (5) business days of  
19 the Effective Date payable to "Brodsky & Smith, LLC" via overnight mail.

20 **C. Action Report Payment.** Reliable shall pay Five Thousand Dollars (\$5,000.00) each time an  
21 Exceedance Response Action Level 2 Report is submitted to Plaintiff after the Effective Date pursuant to  
22 the terms of this Consent Decree. Payments shall be submitted simultaneously with the submittal of the  
23 Action Report by overnight mail. Payments shall be made payable to "University of California at San  
24 Diego Extension Services" and designated for tuition grants for owners and employees of women and  
25 minority businesses that seek training about the IGP.

26 **D. Reliable Document Provision.** During the life of this Consent Decree, Reliable shall copy  
27 Plaintiff on all documents related to storm water quality at the Reliable Facility that are submitted to the  
28 Regional Board, the State Board, and/or any state or local agency, county, or municipality. Such reports

1 and documents shall be provided to Plaintiff on the date they are sent to the agencies, counties, and/or  
2 municipalities. Any correspondence related to Reliable's compliance with the Permit or storm water  
3 quality received by Reliable from any regulatory agency, state or local agency, county, or municipality  
4 shall be provided to Plaintiff within ten (10) days of receipt by Reliable. Provided, however, that this  
5 Consent Decree shall not require disclosure of any information or documents subject to the Attorney Client  
6 Privilege or the Attorney Work Product doctrine.

7 **V. ENVIRONMENTAL PROJECT & REIMBURSEMENT OF LITIGATION FEES & COSTS**

8 **A. Environmental Project.** To remediate the alleged environmental harms resulting from non-  
9 compliance with the 1997 Storm Water Permit and IGP alleged in the Complaint, Reliable agrees to make  
10 a payment of Five Thousand Dollars (\$5,000.00) to University of California at San Diego Extension  
11 Services to fund tuition grants for owners and employees of small businesses (businesses having no more  
12 than 50 employees) affected by the IGP. The payments shall be made within five (5) business days of the  
13 Effective Date payable to "University of California at San Diego Extension Services."

14 **B. Reimbursement of Attorneys' Fees and Costs.** Reliable shall pay a total of Fifty-Four Thousand  
15 Dollars (\$54,000.00) to "Brodsky & Smith, LLC" for its investigation fees and costs, expert/consultant  
16 fees and costs, and reasonable attorneys' fees incurred as a result of investigating and preparing the lawsuit  
17 and negotiating this Consent Decree and one thousand (\$1,000) to Plaintiff Alfonso Lares to reimburse  
18 him for his time spent gaining the injunctive relief and to encourage future environmental enforcement  
19 actions. Payment shall be made payable to "Brodsky & Smith, LLC" within five (5) business days of the  
20 Effective Date via overnight mail.

21 **VI. DISPUTE RESOLUTION**

22 **A. Meet and Confer.** A Settling Party may invoke this meet-and-confer process for any instance of  
23 alleged non-compliance with this Consent Decree by the other Settling Party by notifying the other  
24 Settling Party in writing of the matter(s) in dispute. The Settling Parties shall then meet and confer in  
25 good faith, either telephonically or in person, and attempt to resolve the dispute informally over a period  
26 of thirty (30) days from the date of the notice. The Settling Parties may agree in writing to extend this  
27 time period in an effort to resolve the dispute without outside intervention.  
28

1 **B. IGP Matters.** In case of allegations by the Plaintiff of violations by Reliable of a matter governed  
2 by a provision of the IGP, the plaintiff may file requests for appropriate enforcement actions under the  
3 IGP with the Regional Water Quality Control Board – Santa Ana Region, and any appeals to the State  
4 Water Resources Control Board and the courts of the State of California, in accordance with all applicable  
5 provisions California’s Porter-Cologne Act, the federal Clean Water Act, and other state and federal laws.  
6 Reliable shall have the right to oppose the plaintiff’s requests to the Regional Board, the State Board and  
7 the courts, in accordance with applicable provisions of state and federal law.

8 **C. Other Matters.** For allegations by either Settling Party concerning all other matters, the  
9 complaining Settling Party may move the Court for a remedy, and the Court shall determine an appropriate  
10 motion or hearing procedure to resolve the dispute. In all such Court proceedings, the Settling Party that  
11 invoked the meet-and-confer procedures shall have the burden of demonstrating that the other Settling  
12 Party has failed to meet its obligations as set forth in this Consent Decree.

13 **D. Enforcement Fees and Costs.** In the event that procedures under either sections VI. B. or C. are  
14 undertaken, the reasonable litigation costs and fees that the prevailing Settling Party incurs shall be paid  
15 by the other Settling Party.

16 **VII. MUTUAL RELEASE OF LIABILITY AND COVENANT NOT TO SUE**

17 **A. Plaintiff’s Public Release of Claims.** This Consent Judgment is a final and binding resolution  
18 between Plaintiff, on his own behalf, and on behalf of the public and in the public interest, and Reliable,  
19 and its parents, subsidiaries, affiliated entities under common ownership, directors, officers, agents,  
20 employees, attorneys, if any (collectively “Releasees”), and shall have a preclusive effect such that no  
21 other person or entity, whether purporting to act in his, her, or its interests or the public interest shall be  
22 permitted to pursue and/or take any action with respect to any violation of the CWA or the IGP that was  
23 alleged in the Complaint, or that could have been brought pursuant to the Notice.

24 **B. Plaintiff’s Release of Additional Claims.** As to Plaintiff for and in his individual capacity only,  
25 this Consent Judgment shall have preclusive effect such that he shall not be permitted to pursue and/or  
26 take any action with respect to any other statutory or common law claim, to the fullest extent that any of  
27 the foregoing were or could have been asserted by him against Reliable or the Releasees based on the facts  
28 alleged in the Complaint and the Notice, whether or not based on actions committed by Reliable.

1 **C. Waiver of Rights Under Section 1542 of the California Civil Code**

2 1. Plaintiff acting in his individual capacity waives all rights to institute any form of legal  
3 action, and releases all claims against Reliable, and the Releasees, (referred to collectively in this  
4 Section as the "Claims"). In furtherance of the foregoing, Plaintiff waives any and all rights and  
5 benefits which he now has, or in the future may have, conferred upon him with respect to the  
6 Claims by virtue of the provisions of § 1542 of the California Civil Code, which provides as  
7 follows:

8 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES  
9 NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF  
10 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE  
11 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

12 2. Plaintiff understands and acknowledges that the significance and consequence of this  
13 waiver of California Civil Code § 1542 is that even if Plaintiff suffers future damages arising out  
14 of or resulting from, or related directly or indirectly to, in whole or in part, the facts in the  
15 Complaint, Plaintiff will not be able to make any claim for those damages against Releasees.

16 **D. Reliable's Release of Plaintiff.** Reliable, on behalf of itself, its past and current agents,  
17 representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Plaintiff,  
18 his attorneys, and other representatives for any and all actions taken or statements made (or those that  
19 could have been taken or made) by Plaintiff and his attorney and other representatives, whether in the  
20 course of investigating Claims or Otherwise.

21 **E. Parties' Release.** Unless specifically provided for in this Consent Decree, the Parties, on their  
22 own behalf and on behalf of their current and former officers, directors, employees, and each of their  
23 successors and assigns, and their agents, and other representatives release all persons including, without  
24 limitation, all other Parties to this Consent Decree (and each of their direct and indirect parent and  
25 subsidiary companies and affiliates, and their respective current and former officers, directors, members,  
26 employees, shareholders, and each of their predecessors, successors, and assigns, and each of their agents,  
27 attorneys, consultants, and other representatives) from any additional attorney's fees or expenses related  
28 to the resolution of this matter.



1 **F.** Nothing in this Consent Decree limits or otherwise affects any Party's right to address or take any  
2 position that it deems necessary or appropriate in any formal or informal proceeding before the State  
3 Board, Regional Board, U.S. Environmental Protection Agency, or any other administrative body on any  
4 other matter relating to Reliable's compliance with the IGP or the Clean Water Act occurring or arising  
5 after the Termination Date of this Consent Decree.

6 **VIII. RETENTION OF JURISDICTION**

7 **A. Continuing Jurisdiction.** This Court shall retain jurisdiction over this matter until the  
8 Termination Date defined above for the purposes of implementing and enforcing the terms and conditions  
9 of this Consent Decree. The Court shall have the power to enforce this Consent Decree with all available  
10 legal and equitable remedies, including contempt.

11 **B. Extension of Time.** Either Settling Party may move for an extension of the Termination Date on  
12 the ground that the other Settling Party will not be in compliance with one or more provisions of this  
13 Consent Decree as of the Termination Date. Any such motion must be filed with the court before the  
14 Termination Date and served on the opposing Settling Party at least 21 days before the court hearing date  
15 for the motion. The motion papers must (a) identify the provision or provisions of the Consent Decree  
16 with which the moving Settling Party contends the other Settling Party will not comply; (b) describe the  
17 nature of each alleged instance of non-compliance; and (c) provide an estimate of the additional time the  
18 opposing Settling Party will need to come into compliance, with an explanation in support of the estimate,  
19 for each alleged instance of non-compliance.

20 **IX. MISCELLANEOUS PROVISIONS**

21 **A. No Admission of Liability.** Neither this Consent Decree, the implementation of additional BMPs,  
22 nor any payment pursuant to the Consent Decree shall constitute or be construed as a finding, adjudication,  
23 admission, or acknowledgment of any fact, law, or liability, nor shall it be construed as an admission of  
24 violation of any law, rule, or regulation. Reliable maintains and reserves all defenses it may have to any  
25 alleged violations that may be raised in the future.

26 **B. Construction.** The language in all parts of this Consent Decree shall be construed according to  
27 its plain and ordinary meaning, except as to those terms defined in the IGP, the Clean Water Act, or  
28 specifically in the Consent Decree.

1 **C. Choice of Law and Venue.** The laws of the United States shall govern this Consent Decree, with  
2 venue proper only in the Central District of California.

3 **D. Severability.** In the event that any provision, paragraph, section, or sentence of this Consent  
4 Decree is held by a court to be unenforceable, the validity of the enforceable provisions shall not be  
5 adversely affected.

6 **E. Correspondence and Notices.** Any and all notices and/or correspondence between the Parties  
7 provided for or permitted under this Consent Decree shall be in writing and personally delivered or sent  
8 by:

- 9 1. First-class (registered or certified) mail return receipt requested; or
- 10 2. Overnight or two-day courier; or
- 11 3. By email with confirmed receipt only (thus at the risk of the email sender); on any Party  
12 by the other Party to the following addresses:

13 If to Plaintiff:

14 Evan J. Smith, Esquire  
15 Brodsky & Smith, LLC  
16 Two Bala Plaza, Suite #510  
17 Bala Cynwyd, PA 19004  
18 T: 877.354.25900  
19 Email: esmith@brodsky-smith.com

20 If to Reliable:

21 James A. Geocaris, Esq.  
22 Lewis Brisbois Bisgaard & Smith LLP  
23 650 Town Center Drive, Suite 1400  
24 Costa Mesa, CA 92626  
25 T: 714.966.3129  
26 Email: James.Geocaris@lewisbrisbois.com

27 Any change of address or addresses shall be communicated in the manner described above for giving  
28 notices.

29 **F. Counterparts.** This Consent Decree may be executed in any number of counterparts, all of which  
30 together shall constitute one original document. Telecopy, email of a .pdf signature, or facsimile copies  
31 of original signature shall be deemed to be originally executed counterparts of this Consent Decree.

1 **G. Modification of the Consent Decree.** This Consent Decree, and any provisions herein, may not  
2 be changed, waived, discharged, or terminated unless by a written instrument, signed by the Settling  
3 Parties, or upon motion of any Party as provided by law and upon an entry of a modified Consent Decree  
4 by the Court. If any Settling Party wishes to modify any provision of this Consent Decree, the Settling  
5 Party must notify the other Settling Party in writing at least twenty-one (21) days prior to taking any step  
6 to implement the proposed change.

7 **H. Full Settlement.** This Consent Decree contains the sole and entire agreement and understanding  
8 of the Settling Parties with respect to the entire subject matter of this Consent Decree, and any and all  
9 discussions, negotiations, commitments and understandings related to this Consent Decree. No  
10 representations, oral or otherwise, express or implied, other than those contained in this Consent Decree  
11 have been made by any party to it. No other agreements not specifically referred to herein, oral or  
12 otherwise, shall be deemed to exist or to bind any of the Parties.

13 **I. Integration Clause.** This is an integrated Consent Decree. This Consent Decree is intended to  
14 be a full and complete statement of the terms of the Consent Decree between the Settling Parties and  
15 expressly supersedes any and all prior oral or written Consent Decrees, covenants, representations, and  
16 warranties (express or implied) concerning the subject matter of this Consent Decree.

17 **J. Authority of Counsel.** The undersigned representatives for Plaintiff and Reliable each certify that  
18 he/she is fully authorized by the Party whom he/she represents to approve this Consent Decree as to form.

19 **K. Authority.** Reliable certifies that its undersigned representative is fully authorized to enter into  
20 this Consent Decree, to execute it on behalf of Reliable, and to legally bind Reliable to its terms.

21 **L. Agreement to be Bound.** The Settling Parties, including any successors or assigns, agree to be  
22 bound by this Consent Decree and not to contest its validity in any subsequent proceeding to implement  
23 or enforce its terms.

24 **IX. COURT APPROVAL**

25 The Parties hereby respectfully request that the Court promptly approve and enter this Consent Decree.  
26 Upon entry of this Consent Decree, Plaintiff and Defendant waive their respective rights to a hearing or  
27 trial on the allegations of the Complaint and Notice which are at issue in this action. If this Consent  
28 Decree is not approved by the Court, it shall be of no force and effect, and it may not be used in any

1 proceeding for any purpose.

2 **IN WITNESS WHEREOF**, the undersigned have executed this Consent Decree as of the date  
3 first set forth below.  
4

5 **SO AGREED AND APPROVED AS TO CONTENT**

6 Dated: 2/1/2018

PLAINTIFF

7 Alfonso Lares  
8 Alfonso Lares

9  
10 Dated: 2/7/2018


RELIABLE WHOLESALE LUMBER, INC.

11  
12 By   
13 Agent

14  
15 **APPROVED AS TO FORM**

16  
17 Dated: 2/1/2018

BRODSKY & SMITH, LLC

18  
19 By   
20 Evan J. Smith (SBN:242352)  
21 Attorneys for Plaintiff  
22  
23  
24  
25  
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27  
28



1 Dated: 2/7/2018

LEWIS BRISBOIS BISGAARD & SMITH LLP

2 By: 

3 James A. Geocaris (SBN: 65904)  
4 Attorneys for Reliable Wholesale Lumber, Inc.

5  
6 **IT IS SO ORDERED.**

7  
8 Date: \_\_\_\_\_

\_\_\_\_\_  
9 Hon. Josephine L. Staton  
10 United States District Court Judge  
11 Central District of California  
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